

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VINCENT LUCAS,
Plaintiff,

v.

PACIFIC TELECOM COMMUNICATIONS
GROUP, et al.,
Defendants.

: Case No. 1:12CV630-TSB-SKB
: Black, J.
: Bowman, M.J.

:
: **PLAINTIFF'S MOTION FOR A
RULING ON HIS PREVIOUS
MOTION FOR SANCTIONS**
:
:
:

Plaintiff respectfully requests a ruling on his Motion for Sanctions, Doc. 122, regarding Pacific Telecom's false subpoena response, on the grounds that there is no longer any reason to hold the motion in abeyance.

Respectfully submitted,

s/ Vincent Lucas

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Plaintiff

Memorandum In Support

I. Procedural status of this case

The Defendants' Motion to Dismiss has been held in abeyance pending action by the FCC. However, this Court has made clear on numerous occasions that this case is currently active for other purposes, including the entry of default judgments, Docs. 130, 150, and imposition of discovery sanctions, Doc. 138.

II. Procedural history of the Motion for Sanctions

On August 19, 2014, Plaintiff filed his Motion for Sanctions, citing three separate instances of sanctionable conduct. Defendants' Memorandum in Opposition included an Affidavit from Fred Accuardi stating that Pacific Telecom's subpoena response was completely true. However, that affidavit is directly contradicted by the Defendants' own documents that were subsequently submitted by Michael Wood to the FCC. I sought admissions and other discovery from the Defendants with regards to the documents submitted by Wood. On Nov. 18, 2014, this Court held the Motion for Sanctions regarding the Pacific Telecom's subpoena response in abeyance until the Defendants respond to my discovery requests. Memorandum Order, Doc. 138, at 23. The Court made a ruling with regards to the other two instances of sanctionable conduct. Both parties submitted objections to the District Judge regarding the Memorandum Order. On Feb. 26, 2015, this Court held the Motion for Sanctions regarding the Pacific Telecom subpoena response in abeyance yet again until the District Judge makes a ruling on the parties' objections to the Nov. 18 order. Doc. 166 at 13.¹

¹ "Plaintiff protests that the Defendants' response misrepresents the November 18, 2014 order to the extent that "[n]o ruling has been made yet on the merits of the Motion for Sanctions regarding Pacific Telecom's subpoena

On March 16, 2015, the District Judge overruled all objections to the Nov. 18 Order. Consequently, there is no longer any reason to continue to hold the Motion for Sanctions in abeyance. Plaintiff realizes that this Court is busy with many other things and has waited patiently for a ruling. However, it appears that through clerical error or otherwise, the Motion is still being held in abeyance.

Respectfully submitted,

s/ Vincent Lucas

CERTIFICATE OF SERVICE

I certify that on June 9, 2015, I served the foregoing upon Helen Mac Murray, who is a CM/ECF user and is counsel for defendants Telephone Management Corporation, International Telephone Corporation, Pacific Telecom Communications Group, Fred Accuardi, F. Antone Accuardi, and Steve Hamilton, by e-mail to hmacmurray@mpslawyers.com.

s/ Vincent Lucas

response." (Doc. 159 at 1). Technically, Plaintiff is correct. While the undersigned clearly expressed the view in the body of the memorandum that sanctions "should be" imposed for PacTel's incomplete response to the subpoena when it was not yet a party, the undersigned sanctioned only TMC and Fred Accuardi. The order stated that the undersigned would hold consideration of a sanction specifically against PacTel "in abeyance" pending judicial review of the supplemental responses directed to be produced in the same order. The undersigned will more closely review the responses following Judge Black's ruling on the objections to the November 18 Order, as any prior review is premature in view of the pending objections to the November 18 Order."